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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91194772
Party	Defendant Shellef, Omri S
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Attachments	Response to notice of opposition2.pdf ( 4 pages )(26964 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Serial No. 77/767677

Mark: EAST SIDE SOCIAL CLUB

CANNERY CASINO RESORTS, LLC, a  
Nevada limited liability company,

Opposer

v.

OMRI S. SHELLEF, an individual,

Applicant.

Proceeding No.: 91194772

ESTTA Tracking No.: ESTTA345916

**Response to Notice of Opposition**

Omri S. Shellef doing business as EAST SIDE SOCIAL CLUB, located at 135 Station Road, Great Neck NY hereby respond to letter of opposition by Cannery Casino Resorts, LLC Las Vegas, Nevada (“CCR”).

The requested mark “East Side Social Club” which was issued Serial No. 77/767677 will not harm nor damage CCR or CCR’s registered trademark, “Eastside Cannery.” It is the applicant who may stand to sustain harm and damages IF there is any confusion between the two names. The Opposer has no ground to stand on and its opposition is frivolous, hollow, dangerous, and devoid of logic or legal ground as follows:

1. CCR is the owner of a trade mark “Eastside Cannery”, however the posture of the Opposer is as if the real name of the business and its mark is “EASTSIDE,” as it so fondly refers to in the *Notice of Opposition*. For the following arguments we will call the marks by their full name as required by law and as was filed by their respective applicants and not by any unofficial nicknames as CCR prefers, in order to show ownership.

2. CCR is the owner of the mark “Eastside Cannery” (“EC”) and Mr. Shellef is applying for the mark “East Side Social Club” (“ESSC”).
3. The Opposer (in its letter, paragraph #2) is wrong in alleging that “EC” is prior in use to “ESSC”. CCR has amended its application midway to change and intended application to actual use. The mark “EC” was in use not before August 28, 2008. The proposed mark “ESSC” has been continually in use since August 7, 2007, more than a year before “EC”.
4. The Opposer (in par. #3) declares that it is the owner of several trade-marks and service-marks containing “Eastside”; this is another attempt to make the impression, by false assumption, that CCR has been heavenly endowed the exclusive rights to the word “Eastside”. In actuality, ALL those mentioned marks boil down to one name Eastside Cannery in various classes.
5. The marks of the Opposer (as mentioned in paragraph 4 of the *Notice of Opposition*) are mainly and foremost a graphic design consist of a bust of a female (Head of a woman in a circle) with the name, Eastside Cannery, underneath it.
6. CCR registrations (in paragraph 5 of the *Notice*) are valid as long as they are being used as the law guides and CCR intends nothing beyond these guidelines. The applicant has no issues with the use of “EC” by CCR, as long as CCR uses its trademark in complete, as CCR has registered it, without trying to split the “EC” mark into two separate and distinct marks namely “Eastside” or “Cannery”.
7. The fact that CCR has “offered millions of dollars... in connection with” (paragraph 6) a mark that contains a bust of a woman and the words “Eastside Cannery” has no bearing or significance in regards to the applicant’s totally different mark, “East Side Social Club”.
8. The fact that CCR has spent money on advertising and promoting a bust of a woman with “EC” underneath bears no significance to a “Bust-less” mark of “ESSC”.
9. By the nature and the appearance of CCR’s “EC” mark, with a flamboyant bust of a woman, there is a distinct difference in the name and in the appearance of the “EC” mark and the “ESSC” mark. Advertising a bust of a woman with “EC” underneath will not create an unfair gain to “ESSC”. “ESSC” advertisement, public awareness and its goodwill predated any use and appearance of “EC” by more than a year. Mr. Shellef and the mark EAST SIDE SOCIAL CLUB have been featured in numerous books,

publications, and websites, and in the sights of hundreds of thousands of people around the world since August of 2007.

10. Again (paragraph 9 of the Notice), CCR advertisement of the “busted” “EC” mark will create no confusion with “ESSC”. As long as CCR is using the full mark, namely “Eastside Cannery”, with or without the graphic design, there is no confusion between “Eastside Cannery” and “East Side Social Club”. There has not been nor could be room for mistake or confusion between these two distinct marks. After all, the word “Eastside” in “EC” is an adjective, describing the noun “Cannery” while “ESSC” is one complete undivided expression where the “eastside” is two distinct words namely East Side. And since we already took exception to the term “Social Club” the remainder is one complete phrase, a proper noun, with no adjectives, namely “East Side Social Club”.

To prove that the above assumption is right, one just needs to take a look at two of the newer applications by CCR for trademarks, being “Westside Cannery” and “Southside Cannery”. It is clear that CCR treats “Cannery” as noun; it is the core and foundation of the CCR marks that has various sides, adjectives (“Eastside” and “Southside” and “Westside”). If the USPTO sides with CCR, ANY mark containing a reference to ANY map direction will be off limits to applicants seeking to register it in International Classes 21, 25, 41 and 43.

Regarding the word used by CCR to describe our action, “Deception” (paragraph 9 of the *Notice of Opposition*), one must evaluate CCR’s operation and the names they have chosen for the “Eastside Cannery’s” banquet spaces: Casablanca, Columbia, Parkway, Liberty, Capitol, Epic, Verve, Dunhill and Atlantic. All of them are trademarks of Record Labels and music distribution companies (many for over 50 years). This does not seem like a coincidence. Such insinuations (that this hotel is affiliated with these landmark names and the legendary artists whose albums they released) can be described as questionable if not deceptive.

The last thing on our mind is that anyone will confuse us with CCR operations. Any confusion between the “ESSC” name and CCR operations is seen by Mr. Shellef as extremely unfavorably and demeaning. The USPTO should be on notice with such attempts by CCR to interfere with the legitimate business of others and should put CCR on notice that ownership of a trademark does not grant a license to encroach on others’ businesses or seize

control over the English Language. Mr. Shellef needs not CCR's "consent or permission" (paragraph 10 of the *Notice of Opposition*) to use the older of the two marks, EAST SIDE SOCIAL CLUB.

CCR's opposition to Mr. Shellef's mark EAST SIDE SOCIAL CLUB should be dismissed in its entirety as it is without merit and in bad faith.

Date: 14 June 2010

By:  \_\_\_\_\_

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*Individual, Applicant*